

Support Maryland Health Benefit Exchange to Implement the Affordable Care Act (ACA)

Maryland Health Benefit Exchange (Exchange)

SOLICITATION NO. EXCHANGE - (DHMSO294031)

Vendor Question Responses (5th Set) - Published 12/02/2011

Reference Section / Page Number	Reference Requirement	Clarifying Question	MD Response
Section 1.26, p. 26	<p>Offerors, including those Offerors that are certified MBEs, shall:</p> <ul style="list-style-type: none">• Identify specific work categories within the scope of the procurement appropriate for subcontracting.• Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts.• Attempt to make personal contact with the certified MBEs solicited and to document these attempts.• Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements.• Attend pre-bid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs. <p>Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.</p>	<p>In light of the fact that we have already completed teaming agreements with the MBE's, do you still require that we contact the MBE's in writing to verify proper communication regarding this procurement - or is the completed ATTACHMENT D-1 acceptable?</p> <p>Also, does the D-1 have to be certified 10-days in advance of the bid – or just with the bid?</p>	<p>Please refer to Section 1.26, Page 26 for details on MBE attachments and requirements.</p>
Q-5 Warranty p. 283, Q-22: Maintenance and Availability p. 306	Warranty	Can you please confirm whether the Warranty requirement is 90 days or 180 days?	<p>Section Q-5, Page 283 inadvertently states that "This warranty shall be in effect throughout the term of the Contract and for three (3) months thereafter." This language should read: "This warranty shall be in effect throughout the term of the Contract and for 180 calendar days thereafter." The warranty period is 180 calendar days.</p>

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4.4.1 Format of the Technical Proposal, p. 55	<p>The RFP sections should be numbered for ease of reference, i.e., Section 1 Title and Table of Contents, Section 2 Transmittal Letter, Section 3 Executive Summary, etc. In addition to the instructions below, the Offeror's Technical Proposal should be organized and numbered in the same manner as this RFP. This proposal organization will allow evaluators to "map" Offeror responses directly to the RFP requirements by Section Number.</p> <p>The Technical Proposal shall include the following in this order: TITLE AND TABLE OF CONTENTS , CLAIM OF CONFIDENTIALITY, TRANSMITTAL LETTER, EXECUTIVE SUMMARY, PROPOSED WORK PLAN, CORPORATE QUALIFICATIONS AND CAPABILITIES, EXPERIENCE AND QUALIFICATIONS OF PROPOSED STAFF, OFFEROR TECHNICAL RESPONSE TO RFP REQUIREMENTS, OFFEROR OPTIONAL TASK CAPABILITY, CERTIFICATE OF INSURANCE, ADD ECONOMIC BENEFITS</p>	<ul style="list-style-type: none">• Please state exactly how you would like the proposal numbered.• Should Attachments (i.e., those not addressed in Section 4.4.2 of the RFP) be addressed as Addenda to the response - numbered as in the original RFP?• Should Attachments be attached and have detailed answers or should we just make sure the proposal content addresses the attachment requirements?• Where should the methodologies for Project Management, etc., be addressed in the body of the proposal?	<p>Please refer to section 4.4.3, Page 55-60 for details on proposal submission. Methodologies for project management and the like should be included in the "Proposed Work Plan" section.</p> <p>Please refer to Section 4.4.2, Page 55 for attachment guidelines (these items do not count toward the proposal page limit).</p>
4.4.2 Additional Required Technical Submissions	1. Minimum Qualifications, 2. Completed Bid/Proposal Affidavit - Attachment B ... 7. Business Associate Agreement - Attachment J	Should these 7 items be included as an Addendum following the 11 main Technical Proposal response sections referenced in the question directly above?	<p>Please refer to section 4.4.3, Page 55-60 for details on proposal submission. Methodologies for project management and the like should be included in the "Proposed Work Plan" section.</p> <p>Please refer to Section 4.4.2, Page 55 for attachment guidelines (these items do not count toward the proposal page limit).</p>
Section 1	Items 1.1 through 1.43	If the Offeror has comments to be included on any of these items, is it permissible to add an Addendum to the overall response for this purpose?	The Exchange discourages offerors from submitting exceptions in connection with their proposals and reserves the right to treat proposals containing exceptions as non-responsive, depending on the nature of the exceptions taken. However, the Exchange will give consideration to any comments submitted at any time.
Performance Bond - Section 1.43.3 of the RFP: Percentage of Proposal Price.		Currently, a performance bond is required in the amount of 100% of the proposal price. Noridian requests that the percentage for the performance be reduced to 10%.	See Addendum Published on 11/22/2011

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Performance Bond - Section 1.43.3 of the RFP: Percentage of Proposal Price (Alternative Request).		In the alternative, Naridian requests that the Exchange accepts, as complete and fully compliant, a proposal that is conditioned upon a reduction in the performance bond amount, so that the total value of the performance bond would not exceed 10% of the proposal price.	See Addendum Published on 11/22/2011
Retainage - Section 1.36 of the RFP		Currently, a retainage is required in the amount of 25%. Noridian requests that the retainage percentage be reduced to 10%.	See Addendum Published on 11/22/2011
1.36 Retainage (p29)		We would expect retainage to be released within thirty (30) days of the <u>"Go-No Go" decision to proceed to the next phase and/or Sprint</u> .	The Offeror shall submit a separate invoice for the retainage release no earlier than the end of the project phase 1a maintenance warranty period (see diagram on page 34). The Offeror shall track the cumulative retainage amount and display this amount on the invoices until the retainage is released by the Contract Monitor.
1.14 Cancellations & Discussions (p24) 1.37 COTS Software (p29)		This Offeror's proposal is offered as a whole from solution, pricing, staffing, service levels, and a contractual perspective. Should the State elect not to purchase all of the proposed software modules from the Offeror or accept only a part of the proposal, negotiation will be needed in order to address the corresponding impact including but not limited to pricing and service level metrics	The Exchange is seeking to award a single contract for a complete, integrated solution. The Exchange reserves the right to negotiate with offerors pursuant to its procurement policies and procedures.
2.2 Service Level Metrics (p35)		Consistent with the language in the RFP, we would expect to work with the Exchange during contract finalization to define the manner for assessment of liquidated damages for failure to meet contracted service levels and to clarify that the service levels are applicable to items supplied by and under the control of the Offeror.	Any discussion with an offeror will be consistent with the RFP and with the Exchanges procurement policies and procedures.
2.2.6 HIPAA Compliance SLA Statutory Penalties (p38)		We would expect the final contract to reflect that the Offeror is only responsible for the statutory penalties to the extent assessed by the federal government for the Offeror's or its subcontractor's corresponding failure under HITECH.	Please refer to Section 2.2.6, Page 38 for details on HITECH failures.

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Attachment A, Section 10.1 and 10.4 Indemnification (p73)		We can agree to indemnify the State for third party claims, demands, suits and actions concerning personal injury and death, damage to tangible property caused by the Offeror or its subcontractors' negligence, and claims for infringement of third party patent, copyrights and trademarks as noted above regarding Section 7.2. Because the State has other contract remedies available in the event of Contractor non-performance (e.g., service metrics, retainage, termination, etc.), we would focus Section 10.1 on third party claims for Contractor's failure to comply with applicable laws, claims by its employees or subcontractors, and failure to pay taxes; and delete the second sentence of Section 10.4. If there are other types of claims that are of concern to the Exchange we would be willing to discuss.	Section 10.1 and 10.4 of Attachment A will remain the same. However, please see Addendum Number 1 for other modifications to the contract attached to the RFP.
Attachment A, Section 10.1 and 10.4 Indemnification (p73)		An indemnification provision that defines applicable indemnification procedures such as requiring notice to the Contractor, and permitting the Contractor to control the defense and settlement of any claims would also need to be in the final contract.	Any discussions with an offeror will be consistent with the Exchanges procurement policies and procedures.

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Attachment A, Section 27 Liability (p79)		Following up on the discussion at the Pre-Proposal conference, we share other bidders' concerns regarding the limitation of liability provision as currently stated in the RFP and the 3rd set of responses to bidders' questions. We enjoy a long history of successful performance across a wide range of projects with state and local governments, including the State of Maryland, under contracts with negotiated provisions that balance the allocation of risk between the client and the contractor. Therefore, we would expect to work with the State to more closely align this provision with industry standards including but not limited to the amount of the cap on direct damages, adding a disclaimer for indirect and consequential damages, and more specificity regarding those events within our control for which we would have unlimited liability, and addressing our exceptions submitted to Sections 9 and 10 of Attachment A.	See Addendum Published on 11/22/2011
Attachment A, Section 27 Liability (p79)		Consistent with other contracts that include software license and maintenance as well as the possibility of multiple discrete task orders, we would expect the expression of the limitation of liability to be separately stated to more appropriately reflect the nature of the service and associated allocation of risk.	See Addendum Published on 11/22/2011

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Attachment A, Section 29 Liquidated Damages (p79)		The important nature of this project requires a clear definition of the requirements, roles and responsibilities, performance expectations and appropriate risk protections. The application of multiple remedies to the same missed service metric is not typical and creates an undue burden on the Offeror and its subcontractors, many of whom are MBE firms. As an experienced firm with a strong track record of performance on projects of similar size and complexity, we would expect to negotiate with the State to finalize the strategy for compensating the State for damages resulting from failure to meet service metrics or breach of performance requirements.	Any discussions with an offeror will be consistent with the Exchanges procurement policies and procedures.
Attachment A, Section 29 Liquidated Damages (p79)		If the Contractor meets a mutually agreed timeline or is delayed by the State or a force majeure event, we would not expect liquidated damages to be assessed for associated missed service metrics.	See Addendum Published on 11/22/2011
Attachment J Business Associate Agreement, Section II.C. Use or Disclosure of PHI by BA (p129)		Offeror agrees to comply with the requirements of the Privacy Rule, including its responsibilities regarding notification, as required of Business Associates, not Covered Entities, per HITECH.	Need more clarity on question.
Attachment Q, Section 5 Warranty (p283)		We agree to 180 days of warranty for the entire system; however would expect that the final contract would include an incident management process and acceptance provision that defines the deliverable acceptance process, including establishing mutually agreeable acceptance criteria based on material compliance with an objective standard of performance (i.e., the deliverable conforms to the specifications).	Please refer to Attachment M, Planning Phase, Page 150 for guidance. Any discussions with an offeror will be consistent with the Exchanges procurement policies and procedures.

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Reference – 1.11 Proposal Due-Date and Time, pg. 23		<p>Will the Exchange consider an RFP proposal due date extension of 7 calendar days for the following reasons to maximize the number of bids and quality of the proposal responses:</p> <p>a) Recent release of the new proposal response document, Attachment V – Consolidated Requirements Spreadsheet, the offeror needs to indicate whether the “Functionality Currently Exists in the current offer’s system” or if “Development & Customization Required”. In many cases this will require comment about what functionality does exist and what customization is required. The document contains 43 pages of requirements and will take an extensive effort to complete.</p> <p>b) Continued questions and answers underway regarding the terms and conditions causing offerors to continue to assess and evaluate risk of this overall program.</p>	See Addendum Published on 11/22/2011